

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIMITRA DIMOPOULOU,

Plaintiff,

-against-

FIRST UNUM LIFE INSURANCE
COMPANY,

Defendant.

1:13-cv-07159 (ALC)

ORDER

ANDREW L. CARTER, JR., United States District Judge:

The Court is in receipt of the Parties' letters concerning Plaintiff's administrative appeal of Defendant's claim determination. *See* ECF Nos. 150-51, 53-54. After careful consideration, Defendant is directed to reach a decision on Plaintiff's appeal within 60 days of the date of this order.

Pursuant to 29 C.F.R. § 2560.503-1(g)(1)(iv), upon an adverse benefit determination, a plan administrator is required to provide a claimant with "[a] description of the plan's review procedures and the time limits applicable to such procedures." 29 C.F.R. § 2560.503-1(g)(1)(iv). Where an administrator provides notice of a denial without specifying a time limit for administrative review of the denial, the plan's time bar is not triggered. *See Burke v. Kodak Ret. Income Plan*, 336 F.3d 103, 107 (2d Cir. 2003). Here, Defendant's notice does not sufficiently advise Plaintiff of the administrative review procedures nor does it specify any time limits by which an administrative appeal must be submitted. Accordingly, Plaintiff's appeal is not untimely.

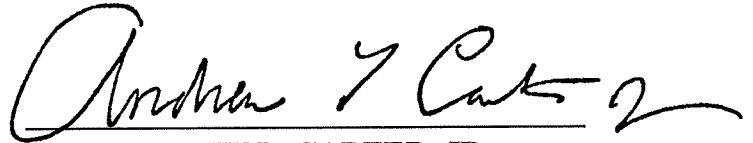
In addition, Defendant's argument that the ERISA regulations require Plaintiff to file an administrative appeal within 180 days of a denial is unavailing. Under 29 C.F.R. § 2560.503-1(h)(3)(i), administrators are required to "[p]rovide claimants at least 180 days following receipt

of a notification of an adverse benefit determination within which to appeal the determination.”

29 C.F.R. § 2560.503-1(h)(3)(i). Not only does this requirement apply to administrators, but also it indicates that the 180-day period is the minimum amount of time to be provided to a claimant, not the maximum.

SO ORDERED.

Dated: December 30, 2019
New York, New York

A handwritten signature in black ink, reading "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge